

Senate Bill 45 – Fact Sheet

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Sponsor: Senator Daniel McGee

Bill Title: Clarify prosecutorial disclosure requirements

Background/Talking Points:

- Title 46-15-322, MCA calls for the prosecutor, in all legal proceedings, to disclose information pertaining to their case to the defendant.
- Title 47-1-111, MCA outlines the criteria for a defendant to be determined indigent, and therefore qualified to receive the services of the Office of the State Public Defender (Agency).
- Current law governing disclosure requirements makes no mention of the potential cost to a defendant or to the Agency if the person is indigent.
- The Agency believes this bill is necessary to clean up the original legislation so that, going forward, defendants determined to be indigent under Title 47 will not face any additional or unnecessary costs in order to receive materials from the prosecution (disclosure).
- Recently, the Agency has received requests for cost reimbursement from certain counties and cities providing the Agency with disclosure. The Agency believes that prior to state assumption of public defender services that a city/county department did not charge another city/county department for these kinds of costs. Therefore, these costs were not part of the original costs assumed by the state.
- To date the Agency has been able to successfully reject the request for payments of this nature although it has taken staff time and effort and in one case a warning of litigation.
- Some examples of cost reimbursement requests are:
 - A ten-cent per page surcharge from Sanders County Attorney for all disclosure.
 - A fifty-cent per page surcharge from the Lewis and Clark County Attorney for all disclosure. On average, 1,250 pages *per week* are received from this office.
 - A fifty-cent per page surcharge from the Lake County Attorney for all disclosure.